

Atty. Dkt. No. 041673-2054

**REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-20 are requested to be cancelled.

Claims 21-34 are being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 21-34 are now pending in this application. If deemed necessary for consideration of the added claims, Applicant hereby renews its Request for Continued Examination of December 31, 2003, the fee for which has already been submitted.

**A. Response to objection to priority claim.**

As requested, the specification has been amended to identify the priority application by its issued patent number. Reconsideration and withdrawal of the objection to the specification in this respect is therefore requested.

**B. Support for claim amendments.**

Each of the newly presented claims has in fact been previously presented in this application. In particular:

Atty. Dkt. No. 041673-2054

New Claim	New Claim Corresponds to Previous Claim
21	1 and 3
22	2
23	1 and 4
24	7
25	8
26	9
27	10
28	13
29	14
30	15
31	16
32	6
33	17
34	18

Atty. Dkt. No. 041673-2054

The amendments are thus fully supported by the specification, such that no new matter is added by this amendment. Furthermore, the subject matter of each newly presented claim has been previously searched, and the wording of each newly presented claim has been previously considered. Entry of the amendment is therefore requested.

**C. Response to Claim Rejections.**

In the present Office Action, the sole substantive rejections are based on (a) indefiniteness, with respect to the use of the term "proximity" in Claim 1; and (b) double patenting.

Applicant submits that the cancellation of Claim 1 renders the indefiniteness objection moot. In this respect, Applicant wishes to confirm for the record that it does not acquiesce in the rejection, or any stated basis therefor. Instead, the cancellation of Claim 1 is for the sole purpose of expediting allowance of claims to the subject matter addressed now in Claims 21-34. Applicant intends to pursue allowance of claims to the subject matter of Claims 1-21, now cancelled, in a co-pending application.

As to the double patenting rejection, a terminal disclaimer is submitted herewith as indicated in the Amendment of November 3, 2003. Applicant submits that the terminal disclaimer is effective to obviate the obviousness-type double patenting rejection set forth with respect to U.S. Patent No. 6,683,058.

With entry of the foregoing amendments and the terminal disclaimer submitted herewith, all outstanding rejections and objections pertaining to the application have been overcome. As such, Applicant submits that reconsideration and withdrawal of the rejections and objections is required.

Furthermore, no objections or rejections made with respect to the newly added claims (or the subject matter thereof) when each such claim was originally presented remains unresolved. As such, Applicant submits that each claim should now be allowed.

Atty. Dkt. No. 041673-2054

**CONCLUSION**

For all of the foregoing reasons, Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application (excepting the issue fee) under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date 5-3-04

By



FOLEY &amp; LARDNER LLP

Customer Number: 30542

Telephone: (858) 847-6720

Facsimile: (858) 792-6773

Stacy L. Taylor  
Attorney for Applicant  
Registration No. 34,842

\*SUBSTITUTE SPECIFICATION (PAGE 1 THEREOF) FOLLOWS\*

## PATENT

**METHODS FOR THERAPY OF  
NEURODEGENERATIVE DISEASE OF THE BRAIN**

## RELATED U.S. PATENT APPLICATIONS

- 5 This is a continuation-in-part of, and claims the priority of, U.S. Patent Application, Serial No. 09/620,174, filed on 07/19/00, now U.S. Patent No. 6,683,058, which in turn claims the priority of 09/060,543, filed on 4/15/1998, now U.S. Patent No. 6,451,306.

## FIELD OF THE INVENTION

- 10 The invention relates to methods for treatment of neurodegenerative disease and methods for delivery of therapeutic neurotrophins into the mammalian brain.

## HISTORY OF THE RELATED ART

- Neurotrophins play a physiological role in the development and regulation of neurons in mammals. In adults, basal forebrain cholinergic neurons, motor neurons and sensory neurons of the CNS retain responsiveness to neurotrophic factors and can regenerate after loss or damage in their presence. For this reason, neurotrophins are considered to have great promise as drugs for the treatment of neurodegenerative conditions such as Alzheimer's Disease (AD), Parkinson's Disease (PD), amyotrophic lateral sclerosis (ALS), peripheral sensory neuropathies and spinal cord injuries.
- 15  
20

- Direct delivery of neurotrophins through infusion into the neurocompromised brain has been met with limited success and, in one instance, actually worsened the condition being treated (Kordower, *et al.*, *Ann. Neurol.*, 46:419-424, 1999 [symptoms of PD worsened following infusion of glial cell-derived neurotrophic factor]). In contrast, *in vivo* transduction of CNS cells with a neurotrophin encoding expression vector holds tremendous promise as a more broadly applicable method of treating and preventing
- 25

SUBSTITUTE SPECIFICATION  
AMENDED AT PAGE 1

1